

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
GREGORY FERGUSON,

Plaintiff,

v.

9:09-CV-0549
(DNH/RFT)

COLE, Correctional Officer,

Defendant.

APPEARANCES:

GREGORY FERGUSON
Plaintiff, pro se

HON. DAVID N. HURD
United States District Judge

ORDER

Presently before the Court for consideration is an amended complaint from *pro se* plaintiff Gregory Ferguson. Dkt. No. 8. Plaintiff submitted this amended pleading as directed by the Court in its Decision and Order filed May 13, 2009. Dkt. No. 6.¹

Upon review, the Court finds that plaintiff has named correctional officer "Cole" as the defendant in this action, in place of the "John Doe" named in the original complaint. Because plaintiff's amended complaint cures the deficiency in his prior pleading, it was properly filed with the Court.

THEREFORE, it is

ORDERED, that

1. The Clerk shall revise the docket to reflect that Cole is the sole defendant in this action and shall issue a summons and forward it, along with a copy of the amended

¹ Plaintiff's *in forma pauperis* application was granted by the Court in the May Order. Dkt. No. 6.

complaint,² to the United States Marshal for service upon defendant Cole. The Clerk shall forward a copy of the summons and amended complaint to the Office of the New York State Attorney General, together with a copy of this Order;

2. A formal response to plaintiff's amended complaint shall be filed by the defendant or his counsel as provided for in the Federal Rules of Civil Procedure subsequent to service of process on the defendant;

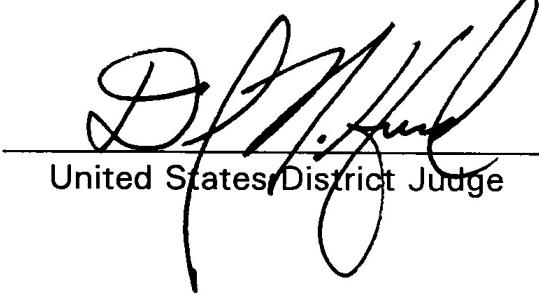
3. All pleadings, motions and other documents relating to this action shall bear the case number assigned to this action and shall be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all opposing parties or their counsel. Any letter or other document received by the Clerk or the Court which does not include a proper certificate of service will be stricken from the docket.** Plaintiff shall also comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. Motions must comply with Local Rule 7.1 of the Northern District of New York and are to be made returnable before the assigned Magistrate Judge on any business day with proper allowance for notice as required by the Rules. **Plaintiff must promptly notify the Clerk's Office of any change in his address; his failure to**

² Plaintiff prepared his amended complaint on a form provided by the Western District of New York. See Dkt. No. 8 at 1. The Clerk is directed to revise the caption of the amended complaint (as filed and on any copies submitted for service) to reflect that this action is pending in the Northern District of New York.

do so will result in the dismissal of this action. All motions will be decided on submitted papers, without oral argument, unless otherwise ordered by this Court; and

4. The Clerk shall serve a copy of this Order on plaintiff.

IT IS SO ORDERED.



United States District Judge

Dated: August 14, 2009
Utica, New York.